

## **REMARKS**

### **FORMAL MATTERS:**

Claims 58-64 and 66-73 are now pending in this application.

Claims 1-57 and 65 were cancelled in the previous Office Action.

Claim 64 is amended to provide antecedent support for the term polynucleotides which is present within claim 72. Claim 73 is amended to delete reference to the negatively phospholipid compounds. Both amendments are believed to be formal in nature.

No new matter is added.

The specification has been amended to refer to the status of the prior application as an issued patent which is Issued Patent 5,906,202. No new matter has been added.

### **REJECTIONS UNDER 35 U.S.C. §112**

Claim 64 was objected to as being indefinite as not including an antecedent basis for the term “the condensed polynucleotides.” The Examiner’s position is correct. Accordingly, claim 64 has been amended to include a proper antecedent basis for the term “polynucleotide” which is present within the independent claim 72. In view of such the rejection is believed to have been overcome.

Claim 73 was objected to as indefinite. Although the rejection is traversed applicants wish to expedite prosecution of the application. Accordingly, all reference to the terms objected to have been deleted from claim 73 thereby rendering the objection moot.

### **REJECTION UNDER 35 U.S.C. §103**

Several rejections have been put forth over a number of the claims under 35 U.S.C. §103. All of the rejections rely in part on U.S. Patent 5,906,202. Applicants do not acquiesce to the validity of the rejections. However, Applicants wish to expedite prosecution. Accordingly, applicants have attached hereto a Declaration as proposed by the Examiner. This Declaration eliminates the U.S. Patent 5,906,202 as a reference against the present application thereby rendering the rejections moot.

### **CONCLUSION**

The specification has been amended to more completely refer to the priority. Two dependent claims have been amended to overcome minor formal issues thereby rendering those rejections moot.

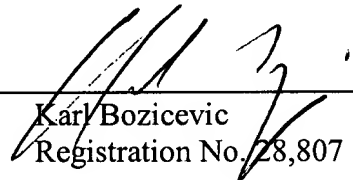
The attached Declaration renders moot the 35 U.S.C. §103 rejection which is not acquiesced to by applicants. In view of such the application is believed to be in condition for allowance and an indication of such is respectfully requested.

In the event that minor issues remain unresolved the Examiner is respectfully requested to contact the undersigned attorney at the indicated telephone interview to expedite the disposition of this application.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number AERX-061.

Respectfully submitted,  
BOZICEVIC, FIELD & FRANCIS LLP

Date: 13/FEB/06

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Enclosure(s): Declaration

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